

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
NO: 4:08-CR-00020-BR

UNITED STATES OF AMERICA

v.

TRACY MAURICE THOMAS

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ORDER

This matter is before the court on defendant's *pro se* motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2) based on Amendment 461 to the U.S. Sentencing Guidelines Manual.

Section 3582(c)(2) permits a court to modify a term of imprisonment "based on a sentencing range that has *subsequently* been lowered by the Sentencing Commission . . . ." (emphasis added). Amendment 461, which became effective 1 November 1992, amended U.S.S.G. § 4B1.2, the guideline provision defining terms used in the career offender provision, "to conform[] the definition of 'sustaining a conviction' in § 4B1.2 to the definition of 'convicted of an offense' in § 4A1.2," among other things. U.S.S.G., App. C, at 267-68 (1997). The Amendment was in effect when defendant was sentenced in 2009 and therefore does not provide a basis for a reduction under § 3582(c)(2) in this case. Furthermore, the Amendment has no impact on defendant's guideline range because he was not sentenced as a career offender.

Defendant's motion is DENIED.

This 29 November 2012.



W. Earl Britt  
Senior U.S. District Judge